

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
CHARLOTTESVILLE DIVISION

GUY W. MERRITT, III,

Plaintiff,

v.

ANDREW M. SAUL,
Commissioner of Social Security,

Defendant.

Civil Action No. 3:19CV00071

FINAL JUDGMENT AND ORDER

By: Hon. Glen E. Conrad
Senior United States District Judge

Plaintiff Guy W. Merritt, III, filed this action challenging the final decision of the Commissioner of Social Security denying his claims for disability insurance benefits and supplemental security income benefits under Titles II and XVI of the Social Security Act, 42 U.S.C. §§ 401–434, 1381–1383f. The matter was referred to United States Magistrate Judge Joel C. Hoppe, pursuant to 28 U.S.C. § 636(b)(1)(B), for proposed findings of fact, conclusions of law, and a recommended disposition. The magistrate judge submitted a Report and Recommendation on March 2, 2021, in which he recommends that the court deny the Commissioner’s motion for summary judgment and remand the case to the Commissioner for additional consideration under sentence four of 42 U.S.C. § 405(g). No objections to the Report and Recommendation have been filed, and the court is of the opinion that the Report and Recommendation should be adopted.

Accordingly, it is hereby

ORDERED

as follows:

1. The Report and Recommendation, ECF No. 16, is **ADOPTED**;
2. The Commissioner’s motion for summary judgment, ECF No. 14, is **DENIED**;

3. Upon the finding that the plaintiff has met the burden of proof in establishing that the Commissioner's final decision is not supported by substantial evidence, the plaintiff's motion for remand shall be and hereby is **GRANTED**;
4. Accordingly, the case is **REMANDED** to the Commissioner for further consideration consistent with the Report and Recommendation;
5. Upon remand, should the Commissioner be unable to decide this case in plaintiff's favor on the basis of the existing record, the Commissioner shall conduct a supplemental administrative hearing at which both sides will be allowed to present additional evidence and argument; and
6. The parties are advised that the court considers this remand order to be a "sentence four" remand. See Shalala v. Schaefer, 509 U.S. 292 (1993); Melkonyan v. Sullivan, 501 U.S. 89 (1991). Thus, this order of remand is a final order. If the Commissioner should again deny plaintiff's claims for benefits, and should plaintiff again choose to seek judicial review, it will be necessary for plaintiff to initiate a new civil action within sixty (60) days from the date of the Commissioner's final decision on remand. See 42 U.S.C. § 405(g).

The Clerk is directed to strike this matter from the court's active docket. The Clerk is further directed to send copies of this order to all counsel of record.

DATED: This 18th day of March, 2021.



Senior United States District Judge